

that employment. Service of process may be had upon Defendant UPRR by serving David Young-UP Law Department, 1001 McKinney, Ste. 900, Houston, Texas 77002.

III.

Defendant MARTIN MARIETTA MATERIALS, INC. is a foreign corporation doing business in the State of Texas and the Western District of Texas, with its principal place of business in Bexar County, Texas. Service of process may be had upon Defendant MARTIN MARIETTA MATERIALS, INC, by serving its registered agent, CT Corporation System, 225 Hillsborough St., Raleigh, NC 27603.

IV.

Defendant BIG BEN & SON TRUCKING is a resident corporation doing business in the State of Texas and the Western District of Texas. Service of process may be had upon Defendant BIG BEN & SON TRUCKING , at 4881 Lost Prairie, San Marcos, Texas 78666.

V.

Defendant BENANCIO RODRIGUEZ (herein referred to as RODRIGUEZ), is an individual residing in the State of Texas and doing business in the Southern District of Texas. Service of process may be had upon Defendant RODRIGUEZ at 4881 Lost Prairie, San Marcos, Texas 78666.

JURISDICTION

VI.

Plaintiff's rights and remedies arise under the Federal Employers' Liability Act (FELA), 45 U.S.C. §51 et seq., and the jurisdiction of this Court is invoked under provisions of said Act. There is complete diversity of citizenship between Plaintiff and MARTIN MARIETTA MATERIALS, INC., and the amount in controversy is in excessive of seventy-five thousand dollars (\$75,000.00), exclusive of costs and interest.

VII.

The claim of Plaintiff against BIG BEN T& SON TRUCKING and RODRIGUEZ is so related to Plaintiff's claim against Defendant UPRR for the incident of May 13, 2008 that it forms part of the same case or controversy. As such, this Honorable Court has jurisdiction pursuant to 28 U.S.C. §1367(a).

VENUE

VIII.

Venue is proper in this matter pursuant to the terms of Title 28 U.S.C. §1391(b) in that the cause of action arose within the Western District of Texas.

UNION PACIFIC RAILROAD - FELA NEGLIGENCE

IX.

The injury to Plaintiff was due in whole or in part to the negligence of Defendant, UPRR, its agents, servants or employees acting in the course and scope of their employment.

**BIG BEN & SON TRUCKING -
NEGLIGENT ENTRUSTMENT/NEGLIGENCE**

X.

Defendant BIG BEN & SON TRUCKING, acting by and through its agent, servant or employee, Defendant RODRIGUEZ, negligently operated the vehicle which was involved in the collision. In the alternative, Defendant BIG BEN & SON TRUCKING negligently entrusted the vehicle in question to Defendant RODRIGUEZ. The negligence in question of BIG BEN & SON TRUCKING was a proximate cause of the injuries and damages which Plaintiff herein claims.

BENANCIO RODRIGUEZ - NEGLIGENCE

XI.

Defendant BENANCIO RODRIGUEZ was the driver of the vehicle which was involved in

the occurrence in question. The negligence of RODRIGUEZ was a proximate cause of the injuries and damages which Plaintiff herein claims.

**MARTIN MARIETTA MATERIALS, INC. - NEGLIGENCE
XII.**

The negligence of Defendant, MARTIN MARIETTA MATERIALS, INC. was a proximate cause of the injuries and damages which Plaintiff herein claims.

**DAMAGES
XIII.**

As a result of the occurrence of May 13, 2008, Plaintiff has suffered damages as enumerated in Paragraphs XIV, XV, and XVI.

XIV.

Plaintiff suffered injury to his neck, back, shoulders and other parts of his body. These injuries are permanent in nature. In all reasonable probability he will continue to suffer in this manner for a long time into the future, if not for the balance of his natural life. Plaintiff would show that due to the incidents described above he has suffered permanent physical impairment and a loss of life's pleasures.

XV.

Because of the nature and the consequences of his injuries, Plaintiff has suffered great physical and mental pain, suffering, and anguish and in all reasonable probability he will continue to suffer in this manner the balance of his natural life.

At the time of the incident complained of, Plaintiff was gainfully employed as a railroad worker. As a result of the negligence of the Defendants, Plaintiff is unable to return to his occupation. Plaintiff has lost wages in the past and will suffer a loss of future earning capacity

including wages and benefits.

As a further result thereof, Plaintiff has incurred expenses for medical care and attention, such as physician's fees, medical supplies, appliances, medicine, hospitalization and nursing services. These expenses were incurred for necessary care and treatment of the injuries resulting from the incidents complained of. The charges are reasonable and they were the customary charges made for such services in the area in which they were rendered.

As a further result of the injuries sustained by Plaintiff, there is a reasonable probability that he will incur future expenses for her medical care and attention.

**PUNITIVE DAMAGES - TRUCK DRIVER
XVI.**

Defendant BENANCIO RODRIGUEZ was grossly negligent in that his conduct was a product of a conscious disregard for the health and safety of Plaintiff and others similarly situated. Plaintiff, therefore, seeks punitive damages from Defendant RODRIGUEZ.

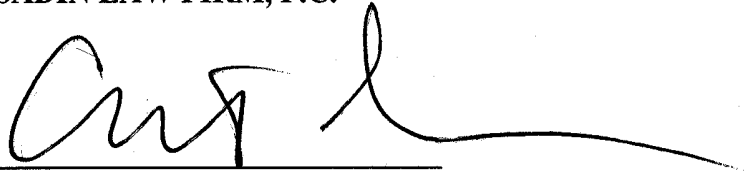
WHEREFORE, Plaintiff requests that Defendants be summoned to appear and answer, and that on final trial, Plaintiff have:

1. Judgment against Defendants, jointly and severally, for a sum well in excess of Seventy-Five Thousand Dollars, exclusive of costs and interest;
2. Post-judgment interest at the legal rate against all Defendants;
3. Pre-judgment interest against Defendants MARTIN MARIETTA MATERIALS, INC., BIG BEN & SON TRUCKING and BENANCIO RODRIGUEZ;
4. Punitive damages against Defendants BIG BEN & SON TRUCKING and BENANCIO RODRIGUEZ;

5. Costs of suit; and
6. Such other and further relief, both at law and in equity, to which Plaintiff may be justly entitled.

Respectfully submitted,

SADIN LAW FIRM, P.C.

A handwritten signature in black ink, appearing to read 'Arthur Sadin', with a long horizontal flourish extending to the right.

ARTHUR SADIN, Attorney in Charge

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